

### REMARKS

Claims 1-16 and 19-27 are pending in the application. Claims 17, 18 and 28 have been canceled without prejudice or disclaimer of the subject matter for being directed to a non-elected invention; Applicant preserves its right to pursue these claims in subsequent prosecution. Claims 1, 9, 19 and 27 are independent and hereby amended. No new matter has been added. Reconsideration and further examination are respectfully requested.

Claims 1, 9, 19 and 27 were rejected under 35 U.S.C. § 112, first and second paragraphs. Without conceding the correctness of the rejections, and solely to advance prosecution, Claims 1, 9, 19 and 27 have been amended. Applicant submits that the presently recited claims are clearly supported in the Specification, at least at paragraphs 78-80. In particular, see e.g., from Paragraph 80, "Hence the Webcam server 110 does not send I<sub>2</sub> to second viewer computer 132...."

Applicant has amended the claims to clarify the claim language. Applicant respectfully requests reconsideration and withdrawal of the claim rejections under 35 U.S.C. § 112, first and second paragraphs.

Claims 1-16 and 19-27 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 6,677,976 (Parker) in view of U.S. Pat. No. 5,832,300 (Lowthert) in further view of U.S. Pat. No. 5,819,048 (Okazaki). Claim 27 was rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 6,377,989 (Fukasawa) in view of Okazaki. Reconsideration and withdrawal of the rejections are respectfully requested for at least the following reasons.

Claim 1 recites a method comprising: associating a first user with a first user ID; associating an instant message with the first user ID; associating an image with the first user ID; causing the instant message to be communicated to the first user from a second user based on the first user ID; and causing the image to be communicated to the first user from the second user based on the first user ID; wherein the first user is able to receive both the instant message and image from the second user, the image being communicated at a frame rate and at an image quality, at least one of said frame rate and said image quality being based upon conditions of a communication path between said

first user and said second user, said frame rate being scalable in accordance with a number of dropped frames depending on whether a previous image has been received; and wherein said frame rate is scalable at least in part by dropping at least some frames such that said dropped frames are not sent to said first user.

Applicant submits that Parker and Lowthert do not disclose the claimed subject matter of claim 1. Parker and Lowthert were discussed in the Applicant's previous responses to Office Actions, dated October 30, 2007 and April 24, 2008. In accordance with that previous discussion, neither Parker or Lowthert, alone or in combination, teach, disclose or suggest, among other things, as set forth in amended claims 1, a frame rate being scalable in accordance with a number of dropped frames depending on whether a previous image has been received, wherein said frame rate is scalable at least in part by dropping at least some frames such that said dropped frames are not sent to said first user.

With regard to Okazaki, the Examiner states that Okazaki teaches a frame rate being scalable in accordance with a number of dropped frames depending on whether a previous image has been received, citing Okazaki, Col. 3, lines 50-65.

Okazaki's image data processing apparatus transmitting data in accordance with a reception rate differs from the claimed subject matter of claim 1. Okazaki teaches an image data processing apparatus in which a reception rate is calculated and a transmitter transmits at the calculated rate. Essentially, as discussed in Okazaki at Col. 3 line 32 to Col. 4 line 43, if lost frames are determined to be occurring too frequently, this is taken as an indication of a problem and indicates that the transmission rate is too high for the reception rate. The transmission rate is then adjusted downward until lost frame rates are reduced to under a specified maximum threshold. Nothing in Okazaki would indicate that transmission means anything other than transmission of *all* frames. Lost frames, as discussed in Okazaki, occur when, for any of a variety of possible reasons, some of the transmitted frames are not properly received or processed at the reception node. *See e.g.* Okazaki, Co. 3, lines 44-53. Okazaki attempts to solve the problem of a lost frame rate that is too high by detecting the overly high lost frame rate and then reducing a frame transmission rate accordingly to reduce the lost frame rate, in other words all frames are sent, but at a reduced transmission speed. This is completely different from what is presently claimed. Col. 3 lines 50-65 of Okazaki, as cited by the Examiner, merely

presents a simple ratio to calculate the rate of occurrence of lost frames, which calculation is then used in determining whether a reduction in transmission rate is needed to reduce the lost frame rate. Okazaki merely discusses adjusting transmission rates to reduce the rate at which transmitted frames are lost, i.e., not properly received or processed at the reception node. Nowhere does Okazaki teach or suggest dropping any frames such that the frames are not sent to a user. Indeed, Okazaki teaches *away* from this, by instead discussing adjusting downward the transmission to be sure to send all frames.

Applicant submits that nowhere does Okazaki teach, disclose or suggest, among other things, as set forth in claim 1, a frame rate being scalable in accordance with a number of dropped frames depending on whether a previous image has been received, wherein said frame rate is scalable at least in part by dropping at least some frames such that said dropped frames are not sent to said first user.

Therefore, Parker, Lowthert and Okazaki, taken alone or in combination, do not teach, disclose or suggest the claimed subject matter in claim 1. Therefore, the Applicant submits that Parker, Lowthert and Okazaki, taken alone or in combination, do not teach, disclose or suggest all of the claimed elements of claims 1. Moreover, Parker, Lowthert and Okazaki, taken alone or in combination, do not render claim 1 obvious, as no combination would yield all of the elements of the presently recited claims. Therefore, the Applicant respectfully requests withdrawal of the rejection.

For at least the foregoing reasons, Claim 1 and the claims that depend from claim 1 are believed to be in condition for allowance. In addition, for at least the same reasons stated above with respect to claim 1, independent Claims 9, 19 and 27 is also believed to be in condition for allowance, and accordingly, the claims that depend from Claims 9, 19 and 27 are also believed to be in condition for allowance.

With regard to the rejection of Claim 27 rejected under 35 U.S.C. § 103(a) as unpatentable over Fukasawa in view of Okazaki, Applicant submits that Fukasawa does not teach, suggest or disclose the claimed subject matter of claim 27. Fukasawa was discussed in the Applicant's previous responses to Office Actions, dated October 30, 2007 and April 24, 2008, and Okazaki is discussed above. In accordance with those discussions and in light of the present claim 27, neither Fukasawa or Okazaki, alone or in combination, teach, disclose or suggest, among other things, a frame rate being scalable

in accordance with a number of dropped frames depending on said indication, wherein said frame rate is scalable at least in part by dropping at least some frames such that said dropped frames are not sent to said first viewer computer, as set forth in amended claim 27.

For at least the foregoing reasons, Claim 27 is believed to be in condition for allowance.

Therefore, Applicant submits that Parker, Lowthert, Okazaki and Fukasawa, taken alone or in combination, do not teach, disclose or suggest all of the claimed elements of claim 27. Moreover, Parker, Lowthert, Okazaki and Fukasawa, taken alone or in combination, would not render any of claims 1, 9, 19 and 27 obvious, and no combination would yield all of the elements of the presently recited claims. Therefore, the Applicant respectfully requests withdrawal of the rejections.

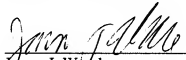
Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that the currently pending claims are in condition for allowance and Notice to that effect is respectfully solicited. Additional characteristics or arguments may exist that distinguish the claims over the prior art cited by the Examiner, and Applicant respectfully preserves their right to present these in the future, should they be necessary. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicant's undersigned representative.

The Applicant's attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 76058.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

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Respectfully submitted,

  
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